

REMARKS

Applicants have amended claim 43 and 47. Upon entry of the proposed amendment, claims 43-71 will be under examination.

Support for amended claim 43 and the new claims can be found as follows:

Claim 43: see, e.g., page 52, lines 16-18 of the specification as filed (“Specification”).

No new matter has been introduced.

Reconsideration of the application is respectfully requested in view of the remarks set forth below.

Rejection under 35 U.S.C. § 112, First Paragraph

The Office Action rejects claims 43-71 as lacking enablement. See page 2, lines 8-9.

Claim 43 is directed to a method of treating a disease or condition in a patient resulting from the presence of neoplastic tissue that includes administering a compound of Formula 1.

The Office Action notes that the method of claim 43 encompasses treatment of all neoplastic tissues and carcinomas with a compound of Formula 1, despite the fact that no single drug has ever been found which is effective in treating all types of neoplastic tissues or carcinomas. See page 2, lines 14-20. It further points out that as neoplastic tissues and associated diseases are extremely diverse, treatment of neoplastic tissue diseases are, accordingly, highly unpredictable and varied in efficacy. See Office Action, page 4, lines 2-5. The Office Action opines that the Applicants have not provided a level of guidance for practicing the method of claim 43 that is commensurate with the high level of unpredictability of methods for treating neoplastic tissue diseases. See page 4, lines 1-15. It therefore concludes that the method of claim 43 is not enabled, as it requires an undue level of experimentation for one of ordinary skill in the art. See page 5, lines 19-20.

Applicants respectfully disagree with the above conclusion. However, in the interest of expediting prosecution, they have amended claim 43 to recite the additional step of “providing the patient with a chemotherapeutic compound, or providing the area in proximity to the neoplastic tissue with a therapeutic energy means selected from photoirradiation and ionizing radiation.”

The compounds recited in the method of claim 43 are metallotexaphyrins, a class of compounds that act in synergy with other treatment modalities (i.e., “a chemotherapeutic compound” or a “therapeutic energy means selected from photoirradiation and ionizing radiation”) to kill neoplastic tissue cells. See the Specification, page 2, lines 9-15; and page 52, lines 13-18. Methods for using the compounds of Formula I in combination with each of these other treatment modalities

are described in detail in the Specification. See page 53, line 11 through page 59, line 14 and page 76, line 5 through page 78, line 10.

Although diseases caused by neoplastic tissues are diverse, one of ordinary skill in the art, at the time the application was filed, had the ability to determine a treatment modality (e.g., chemotherapy or radiotherapy) appropriate for a particular neoplastic tissue disease. See the Specification, e.g., page 27, line 21 through page 28, line 3. Thus, it is respectfully submitted that the method of claim 43, which uses known treatment modalities in combination with the compounds of Formula I (to obtain an enhanced therapeutic effect) does not require an undue level of experimentation for one of ordinary skill in the art. It is further submitted that for at least the same reasons, claims 44-71 are also enabled.

CONCLUSION

Based on the above arguments, it is respectfully requested that the rejection be withdrawn and the claims allowed. Applicants respectfully solicit the Examiner to expedite prosecution of this patent application to issuance. Should the Examiner have any questions, the Examiner is encouraged to telephone the undersigned.

The Commissioner is hereby authorized to charge any additional fees that may be required, or credit any overpayment to Deposit Account No. 23-2415 (Attorney Docket No. 25922.702.501).

Respectfully submitted,

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